

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2019 REGULAR SESSION**

MEASURE

2019 BR NUMBER 0844

HOUSE BILL NUMBER 354 HCS

TITLE AN ACT relating to taxation.

SPONSOR Representative Stephen Rudy

FISCAL SUMMARY

STATE FISCAL IMPACT: ☒ YES ☐ NO ☐ UNCERTAIN

OTHER FISCAL STATEMENT(S) THAT MAY APPLY: ☐ ACTUARIAL ANALYSIS ☐ LOCAL MANDATE ☐ CORRECTIONS IMPACT ☐ HEALTH BENEFIT MANDATE

APPROPRIATION UNIT(S) IMPACTED: _____

FUND(S) IMPACTED: ☒ GENERAL ☐ ROAD ☐ FEDERAL ☐ RESTRICTED _____

| FISCAL ESTIMATES | 2018-2019 | 2019-2020 | ANNUAL IMPACT AT FULL IMPLEMENTATION |
|------------------|-----------|---------------|--------------------------------------|
| REVENUES | | (\$7,750,000) | \$900,000 |
| EXPENDITURES | | | |
| NET EFFECT | | (\$7,750,000) | \$900,000 |

() indicates a decrease/negative

PURPOSE OF MEASURE: This proposal makes technical corrections to 2018 RS HB 366 and HB 487 to correct unintended consequences created by that legislation. If enacted, the proposal will:

For property tax purposes:

- Reduce the property tax rate for qualified heavy equipment rental property from 45 cents for each \$100 value to 5 cents for each \$100 value of assessed property, beginning with property assessed on or after January 1, 2020; and
- Make the protest period for tangible personal property tax the same as other taxes – 60 days from the notice date;

For sales and use tax purposes:

- Require a marketplace provider collect and remit tax under the same threshold as a remote retailer – 200 transactions in Kentucky or sales of \$100,000 in Kentucky during a calendar year;
- Exempt the sale of admissions by nonprofit civic, governmental, or all other nonprofit organizations, except the admissions generated by or arising at a tourism development project approved prior to and in operation as of July 1, 2018;
- Allow for a resale certificate of the following services expanded during 2018:
 - Landscaping services;
 - Janitorial services;
 - Small animal veterinary services;
 - Pet care services;
 - Industrial laundry services;
 - Non-coin-operated laundry and dry cleaning services;
 - Linen supply services;

- Indoor skin tanning services;
- Non-medical diet and weight reducing services;
- Limousine services; and
- Extended warranty services;
- Exempt the first \$10,000 in sales of tangible personal property and digital property made by nonprofit civic, governmental, or all other nonprofit organizations, except the admissions generated by or arising at a tourism development project approved prior to and in operation as of July 1, 2018;
- Clarify who is a toller and what documentation is required to become a toller related to the exemption for energy and energy-producing fuels;
- Exempt from the definition of admissions any fees paid for fishing tournaments and boat ramp or launching fees;
- Exclude from the definition of extended warranty services, services provided to small telephone utilities and CMRS providers of communications services or broadband;
- Clarify that small animal veterinary services do not apply to poultry;

Income Tax:

- Clarify which Internal Revenue Code provisions apply for taxable years beginning on or after January 1, 2018, and update to the Internal Revenue Code as of December 31, 2018, for years beginning on or after January 1, 2019;
- Allow one additional month for an extension of time to file a corporation income tax return because the federal government extended the due date of that return by one month;
- Modify the tax credit related to a major recycling project to:
 - Allow a business with at least 400 certain full-time employees to qualify;
 - Allow a tax credit equal to 25 percent of the installed cost of the recycling equipment;
 - Limit the period for the credit to be taken to 30 years; and
 - Require that the credit claimed in any taxable year cannot exceed 75 percent of the income tax liability which would be otherwise due for that taxable year; and
- Clarify the combined reporting requirements to:
 - Amend the definition of tax haven to exclude any jurisdiction that has entered into an income tax treaty with the United States;
 - Amend the definition of unitary business to exclude any corporation that is regulated with respect to rates charged to customers for electric or gas services;
 - Allow the appointment of a managerial member for administrative purposes related to the combined report; and
 - Clarify which members are included within the combined report to:
 - Include as a member, if 20 percent or more of both its property and payroll are located in the United States;
 - Exclude as a member, if more than 20 percent of its income is from intangible property or service that are deductible against the apportionable income of other members of the combined group; and

Alcohol Beverage Taxes:

- Amend the definition of small farm winery to include a winery whose Kentucky wine production is not greater than 200,000 gallons in a calendar year; and
- Clarify that, beginning January 1, 2017, sales during each calendar year of the first 50,000 gallons of wine made by a small farm winery are exempt from the wholesale tax.

FISCAL EXPLANATION: The following chart contains the fiscal impact by tax type that will occur if this proposal is enacted:

| Tax Type | FY 18-19 | FY 19-20 | Full Implementation |
|-------------------|-----------|-------------|---------------------|
| Property Tax | No impact | No impact | (1,000,000) |
| Sales and Use Tax | No impact | (6,750,000) | +8,400,000 |
| Income Tax | No impact | (1,000,000) | (6,500,000) |
| Total | No impact | (7,750,000) | +900,000 |

DATA SOURCE(S): Executive Branch, Department of Revenue, Office of State Budget Director, LRC Staff

PREPARER: Jennifer Hays **NOTE NUMBER:** 81 **REVIEW:** JAB **DATE:** 2/18/2019

LRC 2019-BR0844-HB354HCS